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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,588	05/30/2007	Klaus Kabella	PAT 61962W-2	7411
42534	7590	06/04/2008	EXAMINER	
BORDEN LADNER GERVAIS LLP			PAYER, HWEI SIU CHOU	
Gail C. Silver			ART UNIT	PAPER NUMBER
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OTTAWA, ON K1P 1J9				
CANADA				
			NOTIFICATION DATE	DELIVERY MODE
			06/04/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/598,588	KABELLA, KLAUS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hwei-Siu C. Payer	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 September 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ .   | 6) <input type="checkbox"/> Other: ____ .                         |

## Detailed Action

The preliminary amendment filed on 9/5/2006 has been entered.

### Drawings Objection

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the light guides as cited in claim must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Objection to the Specification**

The disclosure is objected to because of the following informalities:

(1) On page 2, lines 23-25, the referencing to the claims in the specification is improper and should be deleted.

Appropriate correction is required.

### **Claims Objection**

Claims 1-12 are objected to because of the following informalities:

(1) In claim 1, line 2, “an upper and lower shearing blade” should read --an upper shearing blade and a lower shearing blade--.

(2) In claim 1, line 2, “an upper and “ should read --an upper leg and a--.

(3) In claims 6 and 11, “battery compartment” should read --battery--.

Appropriate correction is required.

### **Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (U.S. Patent No. 4,449,297) in view of Huggans (U.S. Patent No. 7,173,356).

Fuchs et al. discloses a claw-cutting tool (12) comprising an upper shearing blade (30) and a lower shearing blade (32) disposed respectively on an upper leg (18) and a lower leg (20), the blades (30,32) being movable towards one another in the manner of scissors by means of two handles (14,16) and which blades (30,32) form a round or curved cutting opening (note Fig.3) substantially as claimed except the claw-cutting tool lacks a transilluminator and a sensor.

Huggans teaches providing a claw-cutting tool (Figs.2 and 9) with a spectral analysis system incorporating a high intensity light source (1, i.e. transilluminator) used for determining the physical properties of an animal's claw by measuring the optical characteristics of the light emitted from the claw propagating onto an optical pickup spectrometer (i.e. a sensor) and thereby providing a control circuit with sufficient data to indicate to an operator that it is safe to cut the animal's claw. This technique is based upon the fact that light will pass more freely through the material in an animal's claw than through the claw with the quick. A high intensity light (1) is focused onto the surface of the claw, and a photodiode (i.e. a sensor) is positioned on the opposite side of the claw to pick up the light that passes through. The high intensity light source (1) coupled with the photodiode (2) can accurately and repeatedly determine the location of termination of the quick in a claw to aid in proper trimming (see column 6, lines 50-67 to column 7, lines 1-6). Huggans further teaches incorporated a transparent visor or shield

into the high intensity light to reduce the emitting light intensities to a safe and acceptable level (see column 7, lines 34-38), and there is a battery (5) for supplying all the necessary power (see column 7, lines 9-10).

Thus, it would have been obvious to one skilled in the art to modify Fuchs et al. by providing the claw-cutting tool with a high intensity light source and a sensor to accurately determine the location of the quick in a claw to aid in safe cutting of animal's claw as taught by Huggans.

The location of the high intensity light source is deemed to be an obvious matter of personal preference as long as it is able to illuminate the portion of the claw to be cut. Regarding claim 7, to have the illumination intensity of the high intensity light source of the modified Fuchs et al. adjustable to different intensities would have been obvious to one having ordinary skill in the art, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284, CCPA 1954.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (U.S. Patent No. 4,449,297) in view of Huggans (U.S. Patent No. 7,137,356) as applied to claim1 above, and further in view of Rodgers (U.S. Patent No. 7,000,321).

The claw-cutting tool of Fuchs et al. as modified shows all the claimed structure except it does not explicitly mention the light intensity light source being light-emitting diodes.

Rodgers teaches the use of light-emitting diodes for an optical source to illuminate a portion of an animal nail (see column 4, line 64 to line 1 of column 5).

Thus, it would have been obvious to one skilled in the art to further modify Fuchs et al. by using a commercially available lighting means such as Rodgers's light-emitting diodes for illuminating a portion of an animal's claw as taught by Rodgers.

4. Claims 3, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (U.S. Patent No. 4,449,297) in view of Huggans (U.S. Patent No. 7,137,356) as applied to claim 1 above, and further in view of Yang et al. (U.S. Patent Application Publication No. 2002/0178585).

The claw-cutting tool of Fuchs et al. as modified above shows all the claimed structure except it lacks light guides, a power line and an on/off switch.

Yang et al. shows a nail clipper comprising a light guide (44) for bringing a light emitting device (41) to a cutting area, an on/off switch (47), a power line (43) connecting the light emitting device (41) to a battery (40) via the on/off switch (47).

Thus, it would have been obvious to one skilled in the art to further modify Fuchs et al. by providing the claw-cutting tool with an on/off switch for turning on/off the tool and providing with a power line for supplying the power from the battery to the light emitting device as taught by Yang et al.

5. Claims 9 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (U.S. Patent No. 4,449,297) in view of Huggans (U.S. Patent No. 7,137,356) as applied to claim 1 above, and further in view of Terry (U.S. Patent No. 4,117,591).

The claw-cutting tool of Fuchs et al. as modified above shows all the claimed structure except for a securing device.

Terry shows a nail clipper comprising a securing device (8) disposed adjacent cutting blades (2c,3c) for securing a nail.

Thus, it would have been obvious to one skilled in the art to further modify Fuchs et al. by providing the claw-cutting tool with a securing device to aid in clamping the nail/claw for the duration of the cutting operation as taught by Terry.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs et al. (U.S. Patent No. 4,449,297) in view of Huggans (U.S. Patent No. 7,137,356) as applied to claim 1 above, and further in view of Grassi (U.S. Patent No. 4,776,90).

The claw-cutting tool of Fuchs et al. as modified above shows all the claimed structure except it lacks a claw ejection opening disposed in the lower leg.

Grassi shows a nail clipper comprising a nail ejection opening (44) disposed in a lower leg (12) of the clipper.

Thus, it would have been obvious to one skilled in the art to further modify Fuchs et al. by providing the claw-cutting tool with a nail/claw ejection opening in a lower leg (20) of the clipper to facilitate ejection of cut nail/claw as taught by Grassi.

### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H Payer  
June 3, 2008

/Hwei-Siu C. Payer/  
Primary Examiner, Art Unit 3724

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